

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rule making related to telehealth appointments
and providing an opportunity for public comment**

The Board of Hearing Aid Specialists hereby proposes to amend Chapter 123, “Practice of Hearing Aid Dispensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154A.

Purpose and Summary

This proposed rule making would provide the minimum standards of care for hearing aid specialists when providing hearing aid testing or adjustment services during a telehealth appointment. This rule making would add a new rule to Chapter 123 and instruct that when a hearing aid specialist seeks to provide testing or adjustment services to a client remotely, the services must be provided in accordance with the new rule in order to adequately protect the public during a telehealth appointment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on April 27, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.0254
Fax: 515.281.3121
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 28, 2021
8:30 to 9 a.m.

Option 2: Join by video system
1463706783@webex.com

Option 1: Join Webex hearing on
www.webex.com, click “JOIN,”
then enter the following information:
Meeting ID Number: 1463706783
Password: fEu34rv\$

Option 3: Join by phone +1 408.418.9388 (toll)
Access code: 146 370 678 3

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person’s comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** paragraph **123.4(1)“g”**:

g. A written statement indicating that a service or services were provided through a telehealth appointment, if applicable.

ITEM 2. Adopt the following **new** rule 645—123.5(154A):

645—123.5(154A) Telehealth appointments. A licensee may conduct a telehealth appointment so long as the services are provided in accordance with this rule.

123.5(1) A “telehealth appointment” is one wherein the licensee provides testing or adjustment services to a client using technology where the hearing aid specialist and the client are not at the same physical location during the appointment.

123.5(2) Conducting a telehealth appointment with a client who is physically located in Iowa during the appointment, regardless of the location of the hearing aid specialist, shall require Iowa licensure.

123.5(3) When conducting a telehealth appointment, a licensee shall utilize technology that is secure, HIPAA-compliant, and that includes, at a minimum, audio and video equipment that allows for two-way, real-time interactive communication between the licensee and the client. The licensee may use non-real-time technologies to prepare for an appointment or to communicate with clients between appointments.

123.5(4) A licensee who conducts a telehealth appointment shall be held to the same standard of care as a licensee who provides in-person services. A licensee shall not utilize a telehealth appointment if the standard of care for the particular service cannot be met using telehealth technology.

123.5(5) Prior to the first telehealth appointment with a client, the licensee shall obtain informed consent from the client that is specific to the service or services that will be provided in the telehealth appointment. The informed consent shall specifically inform the client of, at a minimum, the following:

a. The risks and limitations of the use of technology to the specific service;

- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth appointment.

123.5(6) A licensee shall only conduct a telehealth appointment if the licensee is competent to provide the particular service using telehealth technology. A licensee's competence to provide a particular service using telehealth technology shall be established by the licensee's education, training, and experience.

123.5(7) A licensee who conducts a telehealth appointment shall note in the client's record that the service or services were provided through a telehealth appointment.